November 5, 2010

From: **My Heart and For the Spirits of the Terminated Mixed-Blood Terminated Uinta Utes Living and Deceased.**

To: **All Honorable Members of the U.S. Congress, All Members of the Executive Branch of the U.S. Government, All U.S. Citizens, All International Human Rights Organization and All Nations Dedicated to Justice for All.**

RE: ***Support the Repeal of the Ute Partition Act ("UPA"), Public Law 671, and Learn about the Discarded Terminated Uinta Indians of Utah***

I apologize in advance for the length of this letter, but I ask you to take a few minutes to carefully read the information here because it is extremely important.

As you may or may not be aware in 1955, Utah Senator Arthur V. Watkins, with the approval and collusion of his associates at the Department of the Interior, BIA, the Mormon Church presidency and malicious members of the Ute Indian Tribe operating behind the scenes. They instigated and orchestrated a new federal program that resulted in 490 mostly Uinta Band members of the confederated Ute Tribe being forcibly subjected to the UPA and cut off from the rest of the Ute Tribe. The UPA divested these 490 American Indians of their individual interests and assets as tribal members (including their share of a multi million dollar court judgment involving tribal assets), and stripped them of their Federal Tribal Recognition and their Federal trust status.

What you may not know (and the reason I am writing to you) is that unprovoked excommunication over 56 years ago subjected the 490 terminated Utes to a program that demanded the informed and willing consent of the individuals to be terminated. To do this consent required as a protection against exactly the type of hostilities the 490 were ultimately subjected to and consent the 490 *never actually gave. In fact, the true record proves they opposed termination in every way they knew how.*

The very limited knowledge of political and governmental operations and the extremely limited financial and political resources of the 490 ultimately meant they lacked the power to prevent their own illegal and fraudulent termination. Despite their very public and legitimate objections

(objections Watkins and his cohort were acutely aware of), Congress was presented with misleading information intentionally designed to make it appear that the 490 were in favor of their own termination. How could this be when approximately 260 of the 490 were "Minor Children?" The historical record proves that Congress was effectively deceived, We must now come together to correct this Manifest Injustice.

Worst still, after the UPA was implemented, the few remaining assets of the 490 were then subjected to the "administrative oversight" of an illegally appointed and empowered board of directors- the Ute Distribution Corporation-which in the ensuing years has utterly failed to protect the assets of the Original 490 and has instead allowed these assets to be transferred to "non-terminated" Indians. This transfer violated a mandate that the assets stay in the hands of the terminated 490 and thus has deprived many of the original 490 of their only remaining source of income. At least on Supreme Court Justice of the United States stated the following comment on Ute Distribution Corporation:

Mr. Justice Douglas, concurring in part and dissenting in part states the following:

Involved here is the mineral estate in the Reservation Lands. Because these gas, oil, and mineral rights were not susceptible of equitable and practicable distribution among the individual Indians, they were to be "managed jointly by the Tribal Business Committee and the mixed-blood group. 25 U.S.C. 677i. The benefits were to be shared proportionately according to the relative numbers of each group on their "final membership rolls." Ibid.

Congress set forth an explicit procedure for the selection of the "authorized representatives" of the Mixed Blood Utes who, with the Tribal Business Committee, were to have managerial powers over the mineral estate in the reservation. Central to this selection was the requirement for a "majority vote of the adult mixed-blood members of the tribe at a special election authorized and called by the Secretary of the Interior pursuant to 25 U.S.C. 677e. The Affiliated Ute Citizens was created under this procedure on April 4, 1956.

Years later, the Ute Distribution Corp. was formed and there lies the root of the present problem. Ute Distribution Corporation "was not chartered" according to the guidelines mandated by Congress. Rather than following the "requirements for a majority vote of the mixed-blood members, it was "created" by the five board members of the Affiliated Ute." Approval of its articles of incorporation was by a vote of "42-5" far short of the majority of the 490 mixed blood Utes required by 25 U.S.C. 677e.

After incorporation, 10 shares of stock were issued to each of the mixed-blood Utes. Despite the flaws in Ute Distribution Corporation's formation, The BIA treated it and not Affiliated Ute Citizens, as the "authorized representative." Payments for mineral rights were thus made to "Ute Distribution" which in turn passed them on to its shareholders as dividends. Because the BIA viewed the transfer of mineral interests to Ute Distribution as one to the authorized representative, cf 25 U.S.C. 677o(a), "the restrictions on the transfer of individual property were "Removed" and the "Federal Trust relationship purportedly was terminated."25 U.S.C. 677V; 26 Fed. Reg. 8042.

Even if the federal trust relationship was terminated as to individual property interests, it does not follow that the "trust relationship was also terminated as to the group interest "mineral rights." The United States continued to "Owe significant obligations and duties with regards to these "mineral interests." See; 25 U.S.C. 6771, 677n and 677o. See Berger, Indian Mineral Interests.

I took some time telling about Ute Distribution Corporation, because most of my people continue to die homeless, and have lost everything they had because they do not receive the income from Ute Distribution Corporation that they should have been getting for the last fifty six years. I feel every penny that hasn't been paid to them even if they are deceased should be paid back that was paid to non Indians, Big Corporations such as "**Wayne Hummer**", "**Piper Plane Corporation**" and the **Ute Indian Tribe** themselves. Thus, they are immorally making money off the pain and suffering of their own people.

In addition, the 490 has yet another governing body forced upon them. This body, the Affiliated Ute Citizens, was comprised of ad hoc BIA appointees rather than nominated and fairly elected members. These appointees continue to represent the terminated 490. As has been true since its inception, to this day the AUC board operates under its "own" agenda with no genuine accountability for accommodating the needs or interests of the 490 it supposedly represents. Our Journey for Justice is obscured from public view largely because of the mass of confusing and conflicting facts that have perplexed anyone who looks at our sad history.

Courts have ruled that AUC lacked "standing" to represent the 490 in court or elsewhere, but the 490 lack the force of legislative or judicial decision to effectively shut down both of the above power grabs. Although there was no way to know it at the time because the government's operatives intentionally hid the truth, that the AUC is an outgrowth of the illegal implementations of the UPA. It has functioned in a quasi-

administrative capacity off and on through the past five decades because the 490 were told the AUC *would be the official voice for their interests and they were given "no other options."*

Until the truth was uncovered a few years ago the 490 had no way of knowing that the AUC was set up strictly as a *convenience for the division of assets-not as ongoing governing body-and its designers (Senator Watkins and his associates) intended and designed AUC to fail and for the 490 to scatter to the four winds after a very short period of time.* It is a mark of the 490 desire to retain their identity as a cohesive band that the AUC persisted in any form. They now know, however, that the AUC board lacks the legitimacy it needs.

Those who set up the AUC did so as cavalierly as they had executed the termination order that gave birth to AUC. There was no concern for the actual welfare of the people who were being terminated. The only concern was the expeditious and seemingly justifiable severance of the 490 from the only source of self-sufficiency they had ever had. What happened to these people *after* termination was apparently of very little interest to the authors of the plan.

How did Watkins and his associates accomplish their aims despite the 490 objections? They fabricated election results, manipulated meeting agendas and outcomes, conducted back from and closed door negotiations with various Ute Indian Tribal members who stood to gain much by excommunicating their unsuspecting kin. Then, they concocted and submitted "official" reports to Congress designed to convince Congress that the 490 were willing to be terminated. This fraud, this cheat, was an outright lie and it accomplished exactly what was intended: 'The Termination of the 490 Mixed Blood members of the Ute Indian Tribe of Utah, the first lab rats of Federal Termination!!"

The truth is if you really want to know about why Watkins and his co-conspirators went to such lengths to accomplish their objectives and you should know, the horrifying details are explained in a book by R.Warren Metcalf, *"Termination Legacy, the Discarded Indians of Utah". I urge you to read it in its entirety and then share it with others.*

In brief, Senator Watkins conceived and designed the federal Indian Termination program
as a way of forcing *Treaty-Protected* American Indians to assimilate into dominant Anglo society at a time when many well-meaning people believed the key to a strong America was to eliminate as much culture and racial distinctiveness as possible and to forge an ethnically homogeneous society. Watkins was so proud that he wanted to use ***"Utah's Utes as a "demonstration tribe" to show what a smashing success termination***

would be." It is of historical interest to note that right during the time our Black Citizens were marching for Freedom and Racial Equality in the South facing brutal beatings, police dogs and water cannons that in Utah another from of slavery and pure racist laws, the UPA, were enacted by Congress. The UPA is a combination of apartheid, slavery and "Nuremburg Laws" all rolled in our own shameful Act of the United States Congress.

Unfortunately, Watkins was consumed by his goal of forcing termination as quickly as possible on as many American Indian People as possible. When he encountered resistance from his intended victims he resorted to whatever means he had at his disposal-even criminally illegitimate methods. He and his associates went to great efforts to make it appeal that they were operating within the boundaries of the law even when they were knowingly violating written statutes, ethical standards of conduct and international human rights. Hitler came to power in Germany in the same deceptive way, targeting a distinct racial group for extermination by turning the German public against Jews.

Ultimately, Congress was "lied to and manipulated into passing the UPA and the 490 were terminated against their will." More than half were Minor Children at that time and could not have legally voted for their own termination under any circumstances. Most of the 490, even the adults, had little or no education. Many of the Victims of Termination did not even know how to read or write, and they certainly possessed "no" meaningful ability to make the transition from federal trust status that had protected them to the sink-or swim fate that awaited them after termination.

Under these circumstances, it will come as no surprise to you to learn that for many of the
490 termination proved to be a *death sentence*. *Stripped of their assets and denied the protection against exploitation federal tribal recognition had afforded, the uneducated, unskilled and unemployed 490 were rendered unable to support themselves by any means. Many died of disease and alcoholism and within a few short years. For those of us who survived, and for their remaining children and grandchildren, the past half-century has been a "slow and agonizing slide into economic and cultural oblivion."*

Of those of us who are still living, many are homeless, sick and are now Senior Citizens. Many will die of deprivation and exposure. The UPA may as well have been an outright "extermination order" for most of me and my people, because that has been the effect.

For many of the 56 years since the UPA was forced on us, the information documenting the lies and machinations behind our fraudulent and illegal termination laid buried deep in federal vaults and personal archives. Hidden in such a way our history is very difficult for anyone to put

together the pieces that would allow the truth to be told.

Meanwhile, Federal Indian Termination proved to be an absolute failure as a policy and disaster for the people subjected to it. The resulting hardships were so horrendous that in a fit of repentance during the Nixon administration, virtually all other terminated Indian people were ultimately *reinstated and had their federal tribal recognition and trust status restored.*

As a matter of equity, the terminated 490 should have received the same restoration of tribal recognition and trust status at that time. Nearly fifty years after all the terminated people were restored to their former status, the terminated 490 still suffer under termination. Why has the law that terminated us never been repealed? What lies and deceptions are preventing this law from being repealed now? Is there some remaining secret agenda that requires us and our descendants to continue to serve as political "lab rats"?

Must we remain terminated simply to see how long it will be before they all succumb to the harshness of the completely unjustified sentence that was pronounced upon them so long ago? We have already suffered more that any other American Indians ever had to suffer under the evil of termination, and were less prepared for the punishment of termination than any other Indians subjected to it. ***We have been unjustly and illegally terminated, defrauded time and time again and singled out and discriminated against in every way imaginable. Isn't it time to say "enough is enough?***

In contrast, ***the poignant plight of the Japanese-Americans who were held in "concentration" camps in Utah during World War II have been recognized and apologized to. Why can't this happen for me and my People? We are being held hostage and their prison is known as Public Law 671, the UPA. This abhorrent law was created as a result of a thoroughly duped Congress and that law (and by extension, Congress) continues to hold us prisoners each and every day of our lives.***

History Speaks Resoundingly about our Injustice . In 1975, Congress sat up what would be known as *"The American Indian Policy Review Commission" or better known as AIPRC and was headed by Senator James Abourezek of South Dakota and Congressman Lloyd Meeds, Washington. There were many Committee members, both Senators and Congressmen and Indians themselves. Task Force Ten was set up under this Commission headed by Ms. Jo Jo Hunt, members were John Stevens, Robert V. Bojarcas and George E. Tomer. This commission was set up to investigate "Terminated and Non Federally Recognized American Indians*

and the effects of Termination.

The above Commission came here to the Uinta & Ouray Reservation to investigate and gather information on the 490 Terminated Mixed Blood Indians of the Ute Indian Tribe of Utah. They officially addressed us as "The Terminated Uinta Band of Utes of Utah". I personally picked them up at the Salt Lake Airport along with two other Terminated women. They spent three days here conducting interviews and taking pictures of us and the reservation, and one day of interviews in Salt Lake City at the University of Utah, before flying back to Washington D.C.

In October of 1976, this Commission reported back to Congress with in part this plain and resounding statement:

The Task Force is quite aware of the high stakes involved, a Tribe ravaged and divided by termination, a Recognized Ute Tribe subjugated to an impending termination and to further aggravate matters a "Reservation rich in vital natural resources, such as natural gas, minerals and water. The task force "recommends further and immediate investigation the situation on the Uinta & Ouray Reservation, involving BIA mismanagement of the trust assets and non-ethical and illegal BIA administrative actions throughout each phase of the termination process.

Congress should direct the General Accounting Office to immediately proceed with a full and complete investigation of trust mismanagement of assets of all terminated tribes in particular the Klamath Tribe of Oregon and The Terminated Ute Indians of Utah.

Conclusion: After a year of hearings, studies, discussions and pensive hours in search of possible solutions to old problems, the time has come to address the findings, those listed immediately above, those in previous sections of this work and others not specifically contained herein, and from them to reach conclusions.

Of necessity, the two areas of concern. Terminated Indians and non federally recognized Indians must be discussed separately.

1. ***Terminated Indians***

After study and reflections, the Task Force has determined that the "Termination Acts were passed by Congress under very "uncommon and questionable circumstances." The legislation was acted upon in haste with little debate as the handiwork of a small number of "Legislators employing tactics which would not be duplicated today.

The Task Force must conclude that the Legislation “was not given the proper consideration and reflected the efforts of legislators intent on passage of the legislation at a time when it appeared that nothing else was working to “solve the Indian problem.”

The Task Force concludes that “Termination” was another, “Experiment” however “ill-conceived and destructive with “no controls” and “no provisions for reversal.” Termination was not initiated by the Indians, was not adequately understood by them and was not for the most part “not consented by them.”

With the BIA evaluations of tribes as to their readiness for withdrawal of Federal protection and its Recommendations to Congress as to which tribes were ready and with the subsequent Congressional responses to such recommendations, the Task Force, can only conclude that The BIA and the Congress made the selections for the participants in the experiment.

The years since termination show that it has “not” had a positive effect on the lives of the Indians and has indeed made life more difficult for them. Termination has resulted in “Loss of Tribal Lands” and the “Disintegration of Tribal Society has weakened tribal organizations and placed Cultural identity in jeopardy, has left those most in need the young, the old, the sick without Federal Services and Rights as Indians and has resulted in the exploitation of Tribal Members.”

The Task Force has also determined that the “BIA and the Secretary of the Interior” has in some cases seriously “mismanaged the trust assets of members of tribes undergoing termination. The “Executive Branch” has in some cases, “Failed to follow the substantive and procedural dictates of Termination Acts. For example: under the California Rancheria Act Section 3 provisions for the Secretaries of Interior and HEW to construct, improve, install, extend and proved sanitation and domestic water supply systems prior to the secretary of Interior benefits.

One can only conclude that “Termination was a bad experiment, one which should not be repeated and one which should be “RECTIFIED.” In every instances where the point was raised, there has been an overwhelming Indian response “Against” termination and “in favor of the restoration of tribes.” The Courts have repeatedly held that Congress has Plenary Power over Indian Affairs; however with that power must also come responsibility.

The Congress and the Executive Branch of the United States Government has “played” with the lives of Indian People through the “Termination experiment and such experiment has been a “failure.”“The moral responsibility “Must rest on Congress and Executive Branch” to

“Proceed without delay to “Rectify their actions through “Restoration of those tribes so desirous of returning to “Federal Indian Status.” In the interim, “There is a Responsibility to Aid those tribes in every way possible.

These findings and conclusions by the Commission were published in 1975. ***44 years go these recommendations came down from the American Indian Policy Review Commission set up by Congress. Why hasn't anything been done to Repeal the law that terminated us?***

In 2002, a resolution was adopted at the Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center in San Diego, California, held on November 10-15, 2002 with a quorum present. This Resolution was signed by President Tex Hall and Juana Majel, Recording Secretary and reads as follows:

Page 3 “Whereas, the NCAI further finds that some State and Federal Policy makers are currently seeking to undermine the “status of federally recognized Indian tribes in Alaska, are currently challenging the sovereignty of Native Hawaiians and are “Continuing to “deny rights” to “Terminated and other non-federally recognized Indian Tribes.”

NOW THEREFORE BE IT RESOLVED that the NCAI does hereby “support the rights of unrecognized tribes to pursue federal recognition through a fair and efficient process, administrative or otherwise.” RESOLUTION # SD-02-076

We therefore ask that the National Congress of American Indians send in a Letter of Support as quickly as possible to me.

This situation is a very personal one for me: I am writing to you today as one of the Original Terminated 490 Mixed Blood members of the Ute Indian Tribe of Utah. When I was terminated I was 11 years old, I did not and could not vote for termination. As stated before, approximately two hundred and sixty of the 490 terminated were children at the time of termination; we could not legally vote. How could there have even been a legal majority vote of the adults when most of those terminated were minor children! I do not know of any of the 490 who intentionally voted in favor of termination. Yet, we were all forcibly subjected to the “de-indianization” Senator Watkins concocted for us. When I was terminated, I had no idea what was happening to me or my family. While I was still very young my parents died as the result of post-termination deprivation and disease as did my younger sister and others.

Although many of my peers share my feelings, experiences and desires to have our Federal Recognition and trust status and lands restored, I'm writing this letter on behalf of myself and the ones who have signed hundreds of petitions asking for the Repeal of Public Law 671. I have spent virtually my entire life learning and researching to try to find out what happened to me and my people. Without Professor Metcalf's work, I may have never been able to find the facts or assemble them in an understandable way. Others of my People do not have the training or skill to speak on their own behalf. I must do what I can and hope that what I am able to do will also help my people. The Terminated 490 Uinta Utes need your help too.

Many of the Original Terminated 490 are have died and more of us die daily, leaving behind destitute and desperate children and grandchildren-descendants who are losing hope of regaining their dignity and the Federal Recognition and trust protection we so urgently need to survive above a bare subsistence level. Although other tribes were also terminated after we were, every one of them has been reinstated.

We have never been restored nor has the Law that Terminated us been Repealed, even though we have asked, begged, pleaded and brought litigation time after time. This unresolved tragedy is a festering oozing scab on the national conscience; isn't it time to heal the wound?

Why have we been singled out and forced to suffer when we were probably the least ready for Termination of any who were subjected to it? We are not animals to be kicked and experimented upon; we are humans, and we are “American Indians.” Why are we not allowed the same Tribal Recognition and Trust Relationship as our fellows? Why are we being discriminated against? When will the Federal Recognition and Trust Status that was “Stolen” from us through lies and fraud be restored? When will the extremely valuable shares owned by big politically influential corporations and individual non-Indians be give back to us?

Thanks to the determined efforts of Professor Metcalf, the facts are not available that would allow the terminated 490 to stop the continuing horrors we have suffered and undo some of the damage. All it would take is for those who now sit in position of power and authority to acknowledge the wrong that has been done and overturn the evil laws that continue to harm me and my People.

Over the years we have tried every avenue legally available to us to undo the fraud and heal the wounds, but the lies and deceptions continue and me and my people continue to suffer and die. I am now 66 years old, but I will continue to fight to lay to rest the Law that stole my life. The hardest fight I have ever fought has been to prove who I am and who I have

always been an American Indian.

Please read Professor Metcalf's book and then please help us to regain the protections that were stolen from us by the Legislative and Administrative Predecessors. Work hand in hand with us to persuade Congress to abolish the UPA as quickly as possible and restore our Federal Recognition and other assets back into Trust Status.

Help us to work with Congress to repeal the UPA and give back our Tribal Recognition and Trust Status and to restore our lands and other assets illegally taken from us through fraudulent machinations of PL 671. You can help to restore the faith that was broken and right the grievous wrongs committed by those who occupied powerful offices.

We have been very patient, but we can wait no longer. Our children and our children's children are depending on us to find a way to recover the Treaty Rights that were stolen from us and to regain the resources and assets that was lost, taken or covered up, we need to survive and be self sufficient. We need your help. We have tried to follow conventional rules and policies to make our voices heard, but we have been ignored, ridiculed abused and shut out.

We have contacted our State, Local and Government officials and asked for their help. We hear nothing from them. Where is their courage and morality? We have also contacted the Assistant Secretary of Interior Mr. Larry Echo Hawk, BIA, and who I must say has been good to work with us. We have also contacted President Barack Obama, but have yet to receive a letter of support from him. I think of the words that he spoke at the Crow Agency in Montana on May 8, 2008 when he stated:

Obama acknowledged that the U.S. Government has had a tragic history with Tribal Nations, and that I hasn't always been honest with them. And that's history we have to Acknowledge if we are going to move forward in a fair and honest way. Indians have never asked much of the United States, only for what was promised by the "treaty obligations made by their forebears." So let me be clear: I believe that treaty commitments are paramount law, I'll fulfill those commitments as President of the United States. We will never be able to undo the wrongs that were committed against Native Americans. But what we can do is make sure that we have a president who's committed to doing what's right with Native Americans- being a full partner. Respecting you, honoring you, working with you. That's the commitment I'm making to you; and since now I'm a member of the Crow and American Indian family, you know that I won't break my commitment to my own brothers and my own sisters.

President Obama said: "I want you to know that you will never be forgotten. "<u>You will be on my mind every day that I'm in the White House."</u>

We ask President Obama to work with the BIA, Assistant Secretary Larry Echo Hawk and direct him to help the Terminated 490 Mixed Blood Utes obtain this Repeal of Public Law 671 and to have our identities as American Indians Restored along with everything we have lost.

Time is the essence to me and my people we are Senior Citizens now and the so called babies on our termination roll is in their early 60's, so we are asking that the repeal be done with "lightning speed" or within "one year" from the first letter we sent to President Obama, which was in the Spring or Summer of this year 2010.

We request that you with your colleagues create a coalition of Congressional Representatives who will help us sponsor and pass legislation granting Federal Tribal Recognition and Trust Status to the Original Terminated 490 Mixed Blood Ute s of Utah and their Descendants. We ask that you work directly with us and Congress and should Mr. Echo Hawk Assistant Secretary of the BIA choose to help us with him to restore to us the lands and resources that were taken from us and given to non Indians and the Ute Indian tribe as a result of Termination.

We ask that Utah's Legislators, at Federal and State and County levels, to step up to the plate and help us, their constituents. Today, Courage in America comes in all shapes, sizes and colors. You will be courageous in our eyes if you stand beside us in our Journey for Justice as we petition Congress to repeal the most racist and shameful laws that stains our image for protecting our Citizens' human rights.

Thank you very much for your patience, I know this is a lot of information to digest in one letter. If you need additional information concerning this letter please contact me or my Attorney. Our Contact information details appear after my signature below.

Your immediate attention will be greatly appreciated.

Sincerely and Urgently,

/signed/

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Note: **Please go to our website at:** www.undeclaredutes.net **and see my people, read about our plight for our Journey to Justice.**